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THE FORT ST. GEORGE GAZETTE

EXTRAORDINARY

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PUBLIC DEPARTMENT.
(General.)

NOTIFICATIONS.

FORT ST. GEORGE, JUNE 30, 1932.

No. 257.—The following Ordinance of the Government of India is republished :—

LEGISLATIVE DEPARTMENT.

Simla, the 30th June 1932.

ORDINANCE No. X OF 1932.

An Ordinance to confer special powers on Government and its officers for the purpose of maintaining law and order.

WHEREAS an emergency has arisen which makes it necessary to confer special powers upon Government and its officers for the purpose of maintaining law and order ;

NOW THEREFORE, in exercise of the power conferred by section 72 of the Government of India Act, the Governor General is pleased to make and promulgate the following Ordinance :—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Ordinance may be called the Special Powers Ordinance, 1932.

(*2*) This Chapter and sections 64, 74, 75, 76, 77, 78, 79 and 80 extend to the whole of British India, including British Baluchistan and the Sonthal Parganas, and the Governor General in Council may, by notification in the *Gazette of India*, extend any or all of the remaining sections to the said area or to any province or part of a province specified in the notification.

(*3*) This Chapter and sections 64, 74, 75, 76, 77, 78, 79 and 80 shall come into force at once, and the Local Government may, by notification in the local official Gazette, direct that any or all of the remaining provisions shall come into force in any area to which they have been extended, on such date as may be appointed in the notification.

Definitions.

2. In this Ordinance, unless there is anything repugnant in the subject or context,—

(*1*) "the Code" means the Code of Criminal Procedure, 1898 ; and

(*2*) "District Magistrate" means, in the case of a Presidency-town or the town of Rangoon, the Commissioner of Police, except in Chapters IV and VI where, in the case of a Presidency-town, it means the Chief Presidency Magistrate.

CHAPTER II.

EMERGENCY POWERS.

Power to arrest and detain suspected persons.

3. (*1*) Any officer of Government authorised in this behalf by general or special order of the Local Government may, if satisfied that there are reasonable grounds for believing that any person has acted, is acting, or is about to act, in a manner prejudicial to the public safety or peace, himself arrest such person without warrant, or may direct the arrest without warrant of such person, and in making such arrest any means that may be necessary may be used.

(2) An arrest made by or on the direction of any officer under this section shall be reported forthwith to the Local Government by the officer so making or so directing the arrest as the case may be, and such officer may, by order in writing, commit any person so arrested to such custody as the Local Government may, by general or special order, specify in this behalf:

Provided that no person shall, unless the Local Government by special order otherwise directs, be so detained in custody for a period exceeding fifteen days:

Provided further that no person shall be so detained in custody for a period exceeding two months.

Power to control suspected persons.

4. (1) The Local Government, if satisfied that there are reasonable grounds for believing that any person has acted, is acting, or is about to act, in a manner prejudicial to the public safety or peace or in furtherance of a movement prejudicial to the public safety or peace, may, by order in writing, give any one or more of the following directions, namely, that such person—

(a) shall not enter, reside or remain in any area specified in the order;

(b) shall reside or remain in any area specified in the order;

(c) shall remove himself from, and shall not return to, any area specified in the order;

(d) shall conduct himself in such manner, abstain from such acts, or take such order with any property in his possession or under his control, as may be specified in the order.

(2) An order made under sub-section (1) shall not, unless the Local Government by special order otherwise directs, remain in force for more than one month from the making thereof.

(3) An order made under sub-section (1) shall be served on the person to whom it relates in the manner provided in the Code for service of a summons.

Power to take possession of buildings.

5. (1) If, in the opinion of the Local Government, any land or building can be utilised as quarters or offices for public servants, or for the accommodation of troops or police, the Local Government may, by order in writing, require the occupier or other person in charge of the land or building to place it at the disposal of Government at such time as may be specified in the order, together with the whole, or any part specified in the order, of any fixtures, fittings, furniture or other things for the time being in the building; and the Local Government may dispose of or use such land, building, fixtures, fittings, furniture or other things in such manner as it may consider expedient.

(2) In this section "building" includes any portion or portions of a building whether separately occupied or not.

Power to prohibit or limit access to certain places.

6. The District Magistrate may, by order in writing, prohibit or limit, in such way as he may think necessary for the public advantage, access to any building or place in the possession or under the control of Government or of any railway administration or local authority, or to any building or place in the occupation, whether permanent or otherwise, of His Majesty's Naval, Military or Air Forces or of any police force, or to any place in the vicinity of any such building or place.

Power to prohibit or regulate traffic.

7. The District Magistrate may, by order in writing, prohibit or regulate, in such way as he may think necessary for the public advantage, traffic over any road, pathway, bridge, waterway or ferry.

Power to regulate means of transport.

8. (1) The District Magistrate may, by order in writing, require any person to make, in such form and within such time and to such authority as may be specified in the order, a return of any vehicles or means of transport owned by him or in his possession or under his control.

(2) The District Magistrate, if, in his opinion, it is necessary for the public advantage, may, by order in writing, require any person owning or having in his possession or under his control any vehicle or means of transport to take such order therewith for such period as may be specified in the order.

Powers regarding arms, ammunition, etc.

9. (1) The District Magistrate may, by order in writing published in such manner as he thinks best adapted for informing the persons concerned,—

(a) prohibit, either absolutely or subject to such exception as may be specified in the order, the purchase, sale or delivery of, or other dealing in, any arms, parts of arms, ammunition or explosive substances; or

(b) direct that any person owning or having in his possession or under his control any arms, parts of arms, ammunition or explosive substances, shall keep the same in a secure place approved by the District Magistrate or remove them to any place specified in the order.

(2) The District Magistrate may take possession of—

(a) any arms, ammunition or explosives, or

(b) any tools, machinery, implements or other material of any kind, likely, in his opinion, to be utilised, whether by the owner or by any other person, for the purpose of causing unlawful hurt or damage to

any person or to any property of Government or of any railway administration or of any local authority,

and may make such orders as he may think fit for the custody and disposal thereof.

Power to require the assistance of certain persons.

10. Any officer of Government authorised in this behalf by general or special order of the Local Government may, within any area specified in such order, require any landholder, village headman, lambardar, mandar or jagirdar, or any officer or servant of any local authority, or any teacher in any school, college or other educational institution to assist in the restoration and maintenance of law and order and in the protection of property in the possession or under the control of Government or of any railway administration or local authority in such manner and within such limits as the officer so authorised may specify.

Power to control posts and telegraphs.

11. The District Magistrate, if, in his opinion, it is necessary for the public advantage, may, in consultation with the chief postal authority in the district, control the operation of any post, telegraph, telephone or wireless office or station, and, in particular, may intercept any postal article or telegraphic, telephonic or wireless message in the course of transmission, may, ascertain its contents and may prohibit its further transmission.

Power to regulate the use of railways and vessels.

12. The District Magistrate may—

(*a*) require accommodation to be provided on any railway train or any vessel for any passengers or goods, and, for this purpose, exclude from such train or vessel any passengers or goods which it is already carrying or about to carry;

(*b*) require that any specified persons or classes of persons or persons proposing to travel to specified destinations, or any specified goods or classes of goods or goods consigned to specified destinations, shall not be carried on any railway or vessel;

(*c*) exclude or eject any passenger from any train or vessel;

(*d*) stop, or prohibit the stopping of, trains or vessels at any station, or

(*e*) in consultation with the local railway authorities, require special trains to be provided for the conveyance of troops, police or other persons.

Power to secure reports of public meetings.

13. The District Magistrate may, by order in writing, depute one or more police officers not below the rank of head constable, or other persons, to attend any public meeting for the purpose of causing a report to be made of the proceedings, and may, by such order, authorise the persons so deputed to take with them an escort of police officers.

Explanation.—For the purposes of this section a public meeting is any meeting which is open to the public or to any class or portion of the public, and a meeting may be a public meeting notwithstanding that it is held in a private place and notwithstanding that admission thereto is restricted by ticket or otherwise.

Power to issue search-warrants.

14. The power to issue search-warrants conferred by section 98 of the Code shall be deemed to include a power to issue warrants authorising—

(*a*) the search of any place in which any Magistrate mentioned in that section has reason to believe that any offence under this Ordinance or any act prejudicial to the public safety or peace has been, is being or is about to be committed, or that preparation for the commission of any such offence or act is being made;

(*b*) the seizure in or on any place searched under clause (*a*) of anything which the officer executing the warrant has reason to believe is being used, or is intended to be used, for any purpose mentioned in that clause,

and the provisions of the Code shall, so far as may be, apply to searches made under the authority of any warrant issued, and to the disposal of any property seized, under this section.

General power of search.

15. Any authority on which any power is conferred by or under this Chapter may, by general or special order, authorise any person to enter and search any place the search of which such authority has reason to believe to be necessary for the purpose of—

(*a*) ascertaining whether it is necessary or expedient to exercise such power; or

(*b*) ascertaining whether any order given, direction made, or condition prescribed in the exercise of such power has been duly complied with, or

(*c*) generally, giving effect to such power or securing compliance with, or giving effect to, any order given, direction made or condition prescribed in the exercise of such power.

Power to give effect to orders if disobeyed.

16. If any person disobeys or neglects to comply with an order made, direction given, or condition prescribed, in accordance with the provisions of this Chapter, the authority which made the order, gave the direction or prescribed the condition may take or cause to be taken such action as it thinks necessary to give effect thereto.

17. Whoever disobeys or neglects to comply with any order made or direction given in accordance with the provisions of section 4 shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

Penalty for disobeying order under section 4

18. Subject to the provisions of section 17, whoever disobeys or neglects to comply with any order made, direction given, or condition prescribed in accordance with the provisions of this Chapter or impedes the lawful exercise of any power referred to in this Chapter shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

Penalty for disobeying other orders under this Chapter.

19. (*1*) Any person who has suffered any direct loss or damage by reason of action taken under section 5 or sub-section (*2*) of section 9 may, within two months from the date on which the action was taken, lodge a claim for compensation with the Local Government, or with such officer as the Local Government may appoint in this behalf.

Claims for compensation.

(*2*) No claim for compensation may be lodged for loss or damage caused in any case where action has been taken under section 16.

(*3*) Any claim lodged under sub-section (*1*) may be investigated by such officer as the Local Government may appoint in this behalf, and any amount which may be agreed upon between the Local Government and the claimant shall be paid to him. If the amount is not agreed upon, the claim shall be decided by an Arbitration Tribunal, in the manner hereinafter provided.

20. (*1*) The Local Government may constitute an Arbitration Tribunal for the trial of any particular claim or claims, or of claims of a specified kind, or of claims arising within a specified area for which provision is not otherwise made.

Constitution of Arbitration Tribunals.

(*2*) An Arbitration Tribunal shall consist of three persons, who are—

(*a*) Commissioners; or

(*b*) persons who have presided in a Civil Court of any grade for not less than five years; or

(*c*) persons who are qualified under sub-section (*3*) of section 101 of the Government of India Act for appointment as Judges of a High Court; or

(*d*) persons who have exercised the powers of a Magistrate of the first class for not less than five years; or

(*e*) persons having special knowledge of matters such as those which may be in dispute.

(*3*) The Local Government shall appoint one of the members to be President of the Tribunal.

(*4*) If for any reason any member of an Arbitration Tribunal is unable to discharge his duties, the Local Government shall appoint another member in his place, and on any such change occurring it shall not be incumbent on the Tribunal to re-call or re-hear any witness who has already given evidence in regard to any claim before it, and the Tribunal may act on any evidence already recorded by or produced before it.

21. (*1*) Arbitration Tribunals may take evidence on oath (which such Tribunals are hereby empowered to administer), and shall have such powers to enforce the attendance of witnesses and the production of evidence as a Civil Court has under the Code of Civil Procedure, 1908.

Procedure of Arbitration Tribunals.

(*2*) In the event of any difference of opinion among the members of an Arbitration Tribunal, the opinion of the majority shall prevail.

(*3*) Subject to any rules which the Local Government may make in this behalf, the President of an Arbitration Tribunal may make orders consistent with this Chapter to provide for the place and conduct of a trial and all other ancillary matters which he may think necessary for carrying into effect the provisions of this Chapter.

22. (*1*) The Local Government may invest the District Magistrate with the powers of the Local Government under sub-section (*1*) of section 4, and may invest the District Magistrate or any Subdivisional Magistrate, or any police officer not below the rank of Deputy Superintendent, with any of the powers of the Local Government under section 5.

Delegation of powers.

(*2*) The Local Government may invest any Subdivisional Magistrate, or any police officer not below the rank of Deputy Superintendent, with any of the powers of a District Magistrate under this Chapter.

(*3*) The District Magistrate may, by order in writing, authorise any officer to exercise any of the powers of the District Magistrate under this Chapter in a specified area or in connection with a specified emergency.

23. The Governor General in Council may exercise any of the powers of a Local Government under this Chapter.

Reserve power to Governor General in Council.

CHAPTER III.

OFFENCES AND PENALTIES.

24. Whoever induces or attempts to induce any public servant or any servant of a local authority or any railway servant to disregard or fail in his duty as such

Tampering with public servants

servant shall be punishable with imprisonment which may extend to one year, or with fine, or with both.

Dissuasion from enlistment.

25. Whoever dissuades or attempts to dissuade any person from entering the military or police service of His Majesty shall be punishable with imprisonment which may extend to one year, or with fine, or with both.

Dissemination of false rumours.

26. Whoever by words, whether spoken or written, or by signs or by visible or audible representations or otherwise publishes any statement, rumour or report which is false and which he has no reasonable ground to believe to be true, with intent to cause or which is likely to cause fear or alarm to the public or to any section of the public, or hatred or contempt towards any public servant, or any class of His Majesty's subjects, shall be punishable with imprisonment which may extend to one year, or with fine, or with both.

Imposition of collective fine on inhabitants of turbulent areas.

27. (*1*) Where it appears to the Local Government that the inhabitants of any area are concerned in the commission of offences or other acts which are prejudicial to the maintenance of law and order or to the public revenues, or are harbouring persons concerned in the commission of such offences or acts, the Local Government may, by notification in the local official Gazette, impose a collective fine on the inhabitants of that area.

(*2*) The Local Government may exempt any person or class or section of such inhabitants from liability to pay any portion of such fine.

(*3*) The District Magistrate, after such inquiry as he may deem necessary, shall apportion such fine among the inhabitants who are liable collectively to pay it, and such apportionment shall be made according to the District Magistrate's judgment of the respective means of such inhabitants.

(*4*) The portion of such fine payable by any person may be recovered from him as a fine or as arrears of land-revenue.

(*5*) The Local Government may award compensation out of the proceeds of a fine realised under this section to any person who, in the opinion of the Local Government, has suffered injury to person or property by the unlawful acts of the inhabitants of the area.

Explanation.—For the purposes of this section, the "inhabitants" of an area includes persons who themselves or by their agents or servants occupy or hold land or other immoveable property within such area, and landlords who themselves or by their agents or servants collect rents from holders or occupiers of land in such area, notwithstanding that they do not actually reside therein.

Dissemination of contents of proscribed documents.

28. Whoever publishes, circulates or repeats in public any passage from a newspaper, book or other document copies whereof have been declared to be forfeited to His Majesty under any other law for the time being in force, shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

Power to direct payment by parent or guardian of fine imposed on a young person.

29. (*1*) Where any young person under the age of sixteen years is convicted by any Court of an offence under this Ordinance or of an offence which in the opinion of the Court has been committed in furtherance of a movement prejudicial to the public safety or peace, and such young person is sentenced to fine, the Court may order that the fine shall be paid by the parent or guardian of such young person as if it had been a fine imposed upon the parent or guardian.

Provided that no such order shall be made unless the parent or guardian has had an opportunity to appear before the Court and be heard.

(*2*) In any such case the Court may direct by its order that in default of payment of the fine by the parent or guardian, the parent or guardian shall suffer imprisonment as if the parent or guardian had himself been convicted of the offence for which the young person is convicted.

CHAPTER IV.

SPECIAL CRIMINAL COURTS.

Special Courts.

30. Courts of criminal jurisdiction may be constituted under this Ordinance of the following classes, namely :—

(i) Special Judges;
(ii) Special Magistrates;
(iii) Summary Courts.

Special Judges.

31. The Local Government may appoint to be a Special Judge for such area as it may think fit any officer who has acted for a period of not less than two years in the exercise of the powers of a Sessions Judge under the Code.

Jurisdiction of Special Judges.

32. Subject to the provisions of section 48 a Special Judge shall try such offences as the Local Government, or an officer empowered by the Local Government in this behalf, may, by general or special order in writing, direct.

Procedure of Special Judges.

33. (*1*) A Special Judge may take cognizance of offences without the accused being committed to his Court for trial, and, in trying accused persons, shall follow the procedure prescribed by the Code for the trial of warrant cases by Magistrates:

Provided that a Special Judge may make a memorandum only of the substance of the evidence of each witness examined, and shall not be bound to adjourn any trial for any purpose unless such adjournment is, in his opinion, necessary in the interests of justice.

(2) In matters not coming within the scope of sub-section (1), the provisions of the Code, so far as they are not inconsistent with this Ordinance, shall apply to the proceedings of a Special Judge; and for the purposes of the said provisions, the Court of the Special Judge shall be deemed to be a Court of Session.

Sentences by Special Judges.

34. A Special Judge may pass any sentence authorised by law.

Appeals and confirmation.

35. (1) An appeal shall lie in the case of any sentence passed by a Special Judge of death or of transportation or imprisonment for a term of two years or more, and the provisions of the Code and of the Indian Limitation Act, 1908, shall apply in respect of such appeal as if it were an appeal under the Code from a sentence passed by a Court of Session exercising jurisdiction in the area in which the offence was committed.

IX of 1908.

(2) A sentence of death passed by a Special Judge shall be subject to confirmation in the manner provided in the Code for the confirmation of a sentence of death passed by a Court of Session.

Special Magistrates.

36. Any Presidency Magistrate or Magistrate of the first class who has exercised powers as such for a period of not less than two years may be invested by the Local Government with the powers of a Special Magistrate under this Ordinance.

Jurisdiction of Special Magistrates.

37. Subject to the provisions of section 48, a Special Magistrate shall try such offences, other than offences punishable with death, as the Local Government or an officer empowered by the Local Government in this behalf may, by general or special order in writing, direct.

Procedure of Special Magistrates.

38. (1) In the trial of any case, a Special Magistrate shall follow the procedure laid down in sub section (1) of section 33 for the trial of cases by a Special Judge.

(2) In matters not coming within the scope of sub-section (1), the provisions of the Code, so far as they are not inconsistent with this Ordinance, shall apply to the proceedings of a Special Magistrate; and for the purposes of the said provisions the Special Magistrate shall be deemed to be a Magistrate of the first class.

Sentences by Special Magistrates.

39. A Special Magistrate may pass any sentence authorised by law, except a sentence of death or of transportation or imprisonment exceeding seven years.

Appeals.

40. (1) Where a Special Magistrate passes a sentence of transportation or imprisonment for a term exceeding one year, or of fine exceeding one thousand rupees, an appeal shall lie, where the case was tried in a Presidency-town to the High Court, and where the case was tried outside the Presidency-town to the Court of Session, unless the Special Magistrate passes a sentence of transportation exceeding one year or a sentence of imprisonment exceeding four years, in which case the appeal shall lie to the High Court.

(2) An appeal under sub-section (1) shall be presented within seven days from the date of the sentence.

Distribution of cases.

41. If any question arises whether, under any order made under section 32 or section 37, an offence is triable by a Special Judge or a Special Magistrate, the question shall be referred for decision to the Local Government, and its decision shall be final.

Summary Courts.

42. The Local Government may, by general or special order in writing, empower any Magistrate appointed under the provisions of the Code to exercise the powers of a Summary Court in any area specified in the order.

Jurisdiction of Summary Courts.

43. (1) Subject to the provisions of section 48, a Summary Court shall have power to try such offences as the District Magistrate may, by general or special order, direct:

Provided that no person shall be tried by a Summary Court for an offence not specified in sub-section (1) of section 260 of the Code which is punishable with imprisonment for a term exceeding two years.

(2) The District Magistrate may, by general or special order, give directions as to the distribution among the Summary Courts in his district of cases triable by them under sub-section (1).

Procedure of Summary Courts.

44. In the trial of any case a Summary Court shall, as far as possible, follow the procedure laid down in the Code for the trial of warrant cases, and shall have all the powers conferred by the Code on a Magistrate:

Provided that the Court shall not be required to record more than a memorandum of the evidence or to frame a formal charge:

Provided further that, in the trial of any offence punishable with imprisonment for a term not exceeding one year, the Court may follow the procedure for the summary trial of cases in which an appeal has laid down in Chapter XXII of the Code.

Sentences by Summary Courts.

45. Summary Courts may pass any sentence which may be passed by a Magistrate of the first class.

Appeals.

46. (*1*) If a Summary Court in a case tried according to the procedure for the trial of warrant cases passes a sentence of imprisonment for a term exceeding three months or a fine exceeding two hundred rupees, or in a case tried by summary procedure passes a sentence of imprisonment for a term exceeding one month or a fine exceeding fifty rupees, an appeal shall lie to the Special Judge appointed for the area in which the offence was committed, or, if no Special Judge has been so appointed, to the High Court or to the Court of Session according as the offence was tried in a Presidency-town or was tried outside the Presidency-towns

(*2*) An appeal under sub-section (*1*) shall be presented within seven days from the date of the sentence.

(*3*) In disposing of an appeal under this section, a Special Judge shall follow the same procedure and have the same powers as an Appellate Court follows and has under the Code.

Procedure when Summary Court considers case triable by another Court.

47. (*1*) If a Summary Court is of opinion that the offence disclosed is one which it is not empowered to try, it shall send the case for trial to the Special Judge or Special Magistrate empowered to try the case under this Ordinance or, if no such Court has been so empowered, to an ordinary criminal court having jurisdiction.

(*2*) If a Summary Court is of opinion that an offence which it is empowered to try should be tried by a Court of superior jurisdiction, or that it requires a punishment in excess of that which the Summary Court is empowered to inflict, it shall stay proceedings and report the case to the District Magistrate who may—

(*a*) direct that the case shall be tried by a Summary Court, or

(*b*) send it to a Court constituted under this Ordinance having jurisdiction, or to an ordinary criminal court having jurisdiction, or

(*c*) report it for the orders of the Local Government

Limitation of jurisdiction of Special Courts.

48. (*1*) No Court constituted under this Ordinance shall try any offence unless it is an offence punishable under this Ordinance or was committed in furtherance of a movement prejudicial to the public safety or peace

(*2*) The question whether or not an offence tried by a Court constituted under this Ordinance is of the nature described in sub-section (*1*) shall not be raised in any Court other than the Court trying the offence, and where such question is so raised then, if the Court is that of a Special Judge the question shall be referred to the Local Government, and if the Court is that of a Special Magistrate or is a Summary Court the question shall be referred to the District Magistrate, and the decision of the Local Government or District Magistrate shall be final.

Powers of Special Courts to deal with refractory accused.

49. (*1*) Where any accused, in a trial before a Court constituted under this Ordinance has, by his voluntary act, rendered himself incapable of appearing before the Court, or resists his production before it, or behaves before it in a persistently disorderly manner, the Court may, at any stage of the trial, by order in writing made after such inquiry as it may think fit, dispense with the attendance of such accused for such period as it may think fit, and proceed with the trial in his absence.

(*2*) Where a plea is required in answer to a charge from an accused whose attendance has been dispensed with under sub-section (*1*), such accused shall be deemed not to plead guilty.

(*3*) An order under sub-section (*1*) dispensing with the attendance of an accused shall not affect his right of being represented by a pleader at any stage of the trial, or of being present in person if he has become capable of appearing, or appears in Court and undertakes to behave in an orderly manner.

(*4*) Notwithstanding anything contained in the Code, no finding, sentence or order passed in a trial before a Court constituted under this Ordinance shall be held to be illegal by reason of any omission or irregularity whatsoever arising from the absence of any or all of the accused whose attendance has been dispensed with under sub-section (*1*).

Special rule of evidence.

50. Notwithstanding anything contained in the Indian Evidence Act, 1872, when the statement of any person has been recorded by any Magistrate, such statement may be admitted in evidence in any trial before a Court constituted under this Ordinance if such person is dead or cannot be found or is incapable of giving evidence, and the Court is of opinion that such death, disappearance or incapacity has been caused in the interests of the accused. I of 1872.

Legal practitioners.

51. A Court constituted under this Ordinance shall not be required to grant an adjournment for the purpose of securing the attendance of a legal practitioner if, in the opinion of the Court, such adjournment would cause unreasonable delay in the disposal of the case.

Exclusion of interference of other Courts.

52. Notwithstanding the provisions of the Code, or of any other law for the time being in force, or of anything having the force of law by whatsoever authority made or done, there shall, save as provided by this Ordinance, be no appeal from any order or sentence of a Court constituted under this Ordinance and, save as aforesaid, no Court shall have authority to revise such order or sentence, or to transfer any case from any such Court, or to make any order under section 491

of the Code or have any jurisdiction of any kind in respect of any proceedings of any such Court.

Application of ordinary law.

53. The provisions of the Code and of any other law for the time being in force, in so far as they may be applicable and in so far as they are not inconsistent with the provisions of this Ordinance, shall apply to all matters connected with, arising from or consequent upon a trial by special criminal courts constituted under this Ordinance.

CHAPTER V.

SPECIAL PROVISIONS AGAINST INSTIGATION TO THE ILLEGAL REFUSAL OF THE PAYMENT OF CERTAIN LIABILITIES.

Power to declare notified areas and notified liabilities.

54. (*1*) The Local Government may, by notification in the local official Gazette, declare that any part of the province or the whole province shall be a notified area for the purposes of this Chapter.

(*2*) Such Local Government may further, by the same or by subsequent notification, declare that in such notified area land-revenue or any sum recoverable as arrears of land-revenue, or any tax, rate, cess or other due or amount payable to Government or to any local authority, or rent of agricultural land, or anything recoverable as arrears of or along with such rent, shall be a notified liability.

Punishment for unlawful instigation to the non payment of notified liability.

55. Whoever, by words either spoken or written, or by signs or by visible representations, or otherwise, instigates, expressly or by implication, any person or class of persons not to pay or to defer payment of any notified liability,

and whoever does any act, with intent or knowing it to be likely that any words, signs or visible representations containing such instigation shall thereby be communicated directly or indirectly to any person or class of persons, in any manner whatsoever,

shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

Special rule of procedure.

56. No Court shall take cognizance of any offence punishable under this Chapter except upon a report in writing of facts which constitute such offence made by a police officer not below the rank of sub-inspector.

Power to collect an arrear of a notified liability as an arrear of land-revenue.

57. (*1*) Any person to whom an arrear of a notified liability is due may apply in writing to the Collector to realise it, and the Collector may, after satisfying himself that the amount claimed is due, proceed to recover it as an arrear of land-revenue, in accordance with the law applicable to the recovery of arrears of land-revenue in the area concerned.

(*2*) Nothing in this section shall prevent any person to whom an arrear of a notified liability is due from recovering it in accordance with the law applicable to the recovery of such arrear.

(*3*) Any person from whom an amount has been recovered under this section in excess of the amount due from him may recover such excess in accordance with law from the person on whose behalf the Collector has realised it.

CHAPTER VI.

SPECIAL PROVISIONS AGAINST ASSOCIATIONS DANGEROUS TO THE PUBLIC PEACE.

Definitions.

58. In this Chapter, unless there is anything repugnant in the subject or context,—

(*a*) "notified place" means a place notified under sub-section (*1*) of section 59;

(*b*) "place" includes also a house, building, tent and vessel; and

(*c*) "unlawful association" means an unlawful association within the meaning of section 15 of the Indian Criminal Law Amendment Act, 1908, and includes an association which has been declared to be unlawful by the Governor General in Council under the powers conferred by section 64. XIV of 1908

Power to notify and take possession of places used for the purposes of an unlawful association.

59. (*1*) The Local Government may, by notification in the local official Gazette, notify any place which in its opinion is used for the purposes of an unlawful association.

(*2*) The District Magistrate, or any officer authorised in this behalf in writing by the District Magistrate, may thereupon take possession of the notified place and evict therefrom any person found therein, and shall forthwith make a report of the taking of possession to the Local Government.

(*3*) A notified place whereof possession is taken under sub-section (*2*) shall be deemed to remain in the possession of Government so long as the notification under sub-section (*1*) in respect thereof remains in force.

Moveable property found in a notified place.

60. (*1*) The District Magistrate or officer taking possession of a notified place shall also take possession of all moveable property found therein, and shall make a list thereof and submit it, with a report of the taking of possession of such moveable property, to the Local Government.

(*2*) If, in the opinion of the Local Government, any articles specified in the list are or may be used for the purposes of the unlawful

association, the Local Government may, by order in writing, declare such articles to be forfeited to His Majesty, and may give such directions for the disposal thereof as it may think fit.

(3) Any articles specified in the list which are not so forfeited may be delivered by the District Magistrate to any person whom he considers to be entitled to possession thereof, or may be retained in the possession of Government and used in such manner as the District Magistrate may direct.

Trespass upon notified places.

61. Any person who enters or remains upon a notified place without the permission of the District Magistrate, or of an officer authorized by him in this behalf, shall be deemed to commit criminal trespass, and, notwithstanding anything contained in the Code any such offence of criminal trespass shall be cognizable and non-bailable.

The relinquishment of property.

62. Before this Ordinance ceases to have effect, or before a notification under sub-section (1) of section 59 is cancelled, the Local Government shall give such general or special directions as it may deem requisite regulating the relinquishment by Government of possession of notified places and of moveable property found thereon whereof possession has been retained under sub-section (3) of section 60.

Power to forfeit funds of an unlawful association.

63. (1) Where the Local Government is satisfied, after such inquiry as it may think fit, that any monies, securities or credits are being used or are intended to be used for the purposes of an unlawful association, the Local Government may, by order in writing, declare such monies, securities or credits to be forfeited to His Majesty.

(2) A copy of an order under sub-section (1) may be served on the person having custody of the monies, securities or credits, and on the service of such copy such person shall pay or deliver the monies, securities or credits to the order of the Local Government:

Provided that, in the case of monies or securities, a copy of the order may be endorsed for execution to such officer as the Local Government may select, and such officer shall have power to enter upon and search for such monies and securities in any premises where they may reasonably be suspected to be, and to seize the same.

(3) Where the Local Government has reason to believe that any person has custody of any monies, securities or credits which are being used or are intended to be used for the purposes of an unlawful association, the Local Government may, by order in writing, prohibit such person from paying, delivering, transferring or otherwise dealing in any manner whatsoever with the same, save in accordance with the written orders of the Local Government. A copy of such order shall be served upon the person to whom it is directed.

(4) The Local Government may endorse a copy of an order under sub-section (3) for investigation to any officer it may select, and such copy shall be warrant whereunder such officer may enter upon any premises of the person to whom the order is directed, examine the books of such person, search for monies and securities, and make inquiries from such person, or any officer, agent or servant of such person, touching the origin of and dealings in any monies, securities or credits which the investigating officer may suspect are being used or are intended to be used for the purposes of an unlawful association.

(5) A copy of an order under this section may be served in the manner provided in the Code for the service of a summons, or, where the person to be served is a corporation, company, bank or association of persons, it may be served on any secretary, director or other officer or person concerned with the management thereof, or by leaving it or sending it by post addressed to the corporation, company, bank or association at its registered office, or, where there is no registered office, at the place where it carries on business.

(6) Where an order of forfeiture is made under sub-section (1) in respect of any monies, securities or credits in respect of which a prohibitory order has been made under sub-section (3), such order of forfeiture shall have effect from the date of the prohibitory order, and the person to whom the prohibitory order was directed shall pay or deliver the whole of the monies, securities, or credits forfeited, to the order of the Local Government.

(7) Where any person liable under this section to pay or deliver any monies, securities, or credits to the order of the Local Government refuses or fails to comply with any direction of the Local Government in this behalf, the Local Government may recover from such person, as arrears of land revenue or as a fine, the amount of such monies or credits or the market value of such securities.

(8) In this section, "security" means a document whereby any person acknowledges that he is under a legal liability to pay money, or whereunder any person obtains a legal right to the payment of money; and the market value of any security means the value as fixed by any officer or person deputed by the Local Government in this behalf.

Power of Governor General in Council to declare associations to be unlawful.

64. (1) If the Governor General in Council is of opinion that any association interferes with the administration of law and order, or that it constitutes a danger to the public peace, he may, by notification in the *Gazette of India*, declare such association to be unlawful.

(2) An association in respect of which such declaration has been made shall be an unlawful association for the purposes of the Indian Criminal Law Amendment Act, 1908, throughout the whole of British India.

XLV of 1908.

Effect of reports and declarations.

65. Every report of the taking possession of property and every declaration of forfeiture made or purporting to be made under this chapter, shall, as against all persons, be conclusive proof that the property specified therein has been taken possession of by Government or has been forfeited, as the case may be.

CHAPTER VII.

SPECIAL PROVISIONS AGAINST CERTAIN FORMS OF INTIMIDATION.

Definition of "molestation."

66. For the purposes of this Chapter, a person is said to molest another person who,—

(a) with a view to cause such other person to abstain from doing or to do any act which such other person has a right to do or to abstain from doing, obstructs or uses violence to or intimidates such other person or anyone in whom such person is interested, or loiters, at or near a house where such person or anyone in whom such person is interested resides or works or carries on business or happens to be, or persistently follows him from place to place, or interferes with any property owned or used by him or deprives him of or hinders him in the use thereof, or

(b) loiters at or near the place where such other person carries on business, in such a way or with intent that any person may thereby be deterred from entering or approaching or dealing at such place, or does any other act at or near such place which may have a like effect.

Punishment for molestation.

67. Whoever molests or abets the molestation of any person shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

Special rule of procedure.

68. No Court shall take cognizance of any offence punishable under section 67 except upon a report in writing of facts which constitute such offence made by a police officer.

69. For the purposes of this Chapter,—

Definition of "boycotting".

(a) a person is said to "boycott" another person who refuses to deal or do business with, or to supply goods to, or to let a house or land to, or to render any customary service to such person or any person in whom such person is interested, or refuses to do so on the terms on which such things would be done in the ordinary course, or abstains from such professional or business relations as he would ordinarily maintain with such person, and

Definition of "public servant".

(b) a "public servant" includes a public servant as defined in section 21 of the Indian Penal Code, and a servant of a local authority, and a person belonging to any class of persons which the Local Government may, by notification in the local official Gazette, declare to be public servants for the purposes of this Chapter.

XLV of 1860.

Punishment for boycotting of a public servant.

70. Whoever boycotts or abets the boycotting of a public servant, or threatens a public servant with boycotting, shall be punishable with imprisonment which may extend to six months, or with fine, or with both:

Provided that no person shall be convicted under this section if the Court is satisfied that his acts were not intended to prejudice the public servant boycotted, or proposed or threatened to be boycotted, in the discharge of the duties of his office or to cause such public servant to terminate or withhold his services in the discharge of such duties, or to commit a breach of discipline.

Special rules of procedure.

71. (1) An offence punishable under section 70 shall be non-cognizable and bailable, and notwithstanding anything contained in the Second Schedule to the Code, a case relating to such an offence shall, for the purposes of section 204 of the Code, be deemed to be one in which a warrant should issue in the first instance.

(2) Where information is given to the officer in charge of a police station of the commission within the limits of such station of an offence punishable under section 70, he shall deal with it in the manner provided in section 154 of the Code, and he shall investigate the case as if he had received an order to that effect from a competent Magistrate.

Punishment for participating in a mock funeral ceremony.

72. Whoever with intent to annoy any person, or with the knowledge that annoyance is likely to be caused to any person, performs or takes part in or abets the performance of any mock ceremony resembling any ceremony associated with or consequent upon death shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

Jurisdiction.

73. No Court other than a Court of a Presidency Magistrate or Magistrate of the first class or of a Special Judge or Special Magistrate constituted under this Ordinance shall take cognizance of or try any offence under this Chapter.

CHAPTER VIII.

SUPPLEMENTAL.

Offences under the Ordinance to be cognizable and non-bailable.

74. Notwithstanding anything contained in the Code, any offence punishable under this Ordinance shall, save as otherwise specially provided in this Ordinance, be cognizable and non-bailable.

All offences under Act XIV of 1908 to be cognizable and non-bailable.

75. Notwithstanding anything contained in the Code, all offences punishable under sub-section (*1*) of section 17 of the Indian Criminal Law Amendment Act, 1908, shall be cognizable and non-bailable.

XIV of 1908.

Certain other offences to be cognizable and non-bailable.

76. (*1*) The Local Government may, by notification in the local official Gazette, declare that any offence punishable under section 160, 186, 187, 188, 189, 190, 227, 228, 295-A, 298, 505, 506, 507 or 508 of the Indian Penal Code, when committed in any area specified in the notification, shall, notwithstanding anything contained in the Code, be cognizable and non-bailable, and thereupon the Code shall, while such notification remains in force, be deemed to be amended accordingly.

XLV of 1860.

(*2*) Notwithstanding anything contained in section 195 or section 196 of the Code, in any area in which a notification under sub-section (*1*) in respect of section 188, 187, 188, 228, 295-A or 505 of the Indian Penal Code is in force, any Court otherwise competent to take cognizance of such offence may take cognizance of such offence upon a report in writing of facts constituting such offence made by any police officer, but shall not proceed with the trial unless it has received a complaint in respect of such offence under section 195 or section 196 as the case may be, and the absence of such complaint shall be reasonable cause, within the meaning of section 344 of the Code, for postponing the commencement of the trial and for remanding the accused.

XLV of 1860.

Temporary amendment of section 4, Act XXIII of 1931.

77. So long as this Ordinance remains in force, in sub-section (*1*) of section 4 of the Indian Press (Emergency Powers) Act, 1931, after clause (*b*), the following words and clauses shall be deemed to be inserted, namely :—

XXIII of 1931.

"or which tend, directly or indirectly,—

(*c*) to seduce any officer, soldier, sailor or airman in the military, naval or air forces of His Majesty or any police officer from his allegiance or his duty, or

(*d*) to bring into hatred or contempt His Majesty or the Government established by law in British India or the administration of justice in British India or any Indian Prince or Chief under the suzerainty of His Majesty, or any class or section of His Majesty's subjects in British India or to excite disaffection towards His Majesty or the said Government or any such Prince or Chief, or

(*e*) to put any person in fear or to cause annoyance to him and thereby induce him to deliver to any person any property or valuable security, or to do any act which he is not legally bound to do, or to omit to do any act which he is legally entitled to do, or

(*f*) to encourage or incite any person to interfere with the administration of the law or with the maintenance of law and order, or to commit any offence, or to refuse or defer payment of any land-revenue, tax, rate, cess or other due or amount payable to Government or to any local authority, or any rent of agricultural land or anything recoverable as arrears of or along with such rent, or

(*g*) to induce a public servant or a servant of a local authority to do any act or to forbear or delay to do any act connected with the exercise of his public functions or to resign his office, or

(*h*) to promote feelings of enmity or hatred between different classes of His Majesty's subjects, or

(*i*) to prejudice the recruiting of persons to serve in any of His Majesty's forces, or in any police force, or to prejudice the training, discipline or administration of any such force,"

and the provisions of that Act shall apply accordingly.

Jurisdiction barred.

78. Except as provided in this Ordinance, no proceeding or order purporting to be taken or made under this Ordinance shall be called in question by any Court, and no civil or criminal proceeding shall be instituted against any person for anything done or in good faith intended to be done under this Ordinance or against any person for any loss or damage caused to or in respect of any property whereof possession has been taken under this Ordinance.

Operation of other penal laws not barred.

79. Nothing contained in this Ordinance shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence punishable under this Ordinance.

Savings in respect of certain Ordinances.

80. (*1*) Anything done in pursuance of any provision of the Emergency Powers Ordinance, 1932, the Unlawful Institution Ordinance, 1932, the Unlawful Association Ordinance, 1932, or the Prevention of Molestation and Boycotting Ordinance, 1932, shall, where the corresponding provision of this Ordinance has come into force before the 4th day of July 1932 be deemed on the expiry of the said Ordinances to have been done in pursuance of the corresponding provision of this Ordinance, and shall have effect, and the provisions of this Ordinance shall have effect, accordingly.

II of 1932. III of 1932. IV of 1932. V of 1932.

(2) Without prejudice to the generality of the foregoing provision it is hereby expressly provided that—

(a) this Ordinance shall operate to confer a right of appeal in all cases where an appeal would have lain under any provision of any of the Ordinances specified in sub-section (1), and every appeal pending at the time of the expiry of the said Ordinances, and, subject to the provisions of this Ordinance relating to the presentation of appeals, every appeal made in pursuance of this sub-section shall be heard and decided in accordance with the provisions of this Ordinance;

(b) this Ordinance shall operate to confer a power to prosecute any person for any offence committed against any provision of any of the Ordinances specified in sub-section (1) and such offence shall be deemed to be an offence committed against the corresponding provision of this Ordinance;

(c) this Ordinance shall operate to confer a power to continue and complete any trial or proceeding under any provision of any of the Ordinances specified in sub-section (1) which was pending at the time of the expiry of the said Ordinances as if such trial or proceeding were a trial or proceeding begun under the corresponding provision of this Ordinance.

WELLINGDON,
Viceroy and Governor General.

No. 255.—Whereas the Governor General in Council by Notification No. F. 13/4/32-Political, dated 30th June 1932, in the *Gazette of India* has extended the provisions of Chapters VI and VII of the Special Powers Ordinance, 1932 (No. X of 1932), to the Presidency of Madras, now therefore in exercise of the power conferred by sub-section (3) of section 1 of the said Ordinance the Local Government is hereby pleased to direct that sections 58, 59, 60, 61, 62, 63, 65, 66, 67, 68, 69, 70, 71, 72 and 73 shall come into force throughout the Presidency of Madras on the 30th June 1932.

(By order of the Governor in Council)

G. T. H. BRACKEN,
Acting Chief Secretary.

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